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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/24/2003

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EXAMINER

MENDOZA, ROBERT J

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,418

Applicant(s)

SIMON ET AL.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 13-35, 43-58 and 66-75 is/are rejected.
- 7) ☒ Claim(s) 6-12, 36-42 and 59-65 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 13-35, 43-58 and 66-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Kohorn (USPN 5283734).

Regarding claims 1-5, 22-35 and 52-58, Von Kohorn discloses, in col. 9:27-67 and col. 10:1-25, a method of playing a pari-mutuel betting game between a plurality of players, the pari-mutuel betting game based on events unfolding during a live sporting event, a principal objective of the game to acquire the largest number of betting tokens by the end of the sporting event and allocating betting tokens to each of the players prior to commencement of the sporting. Von Kohorn discloses, in col. 10:35-67 and col. 12:1-67, conducting a plurality of betting events, the betting event based on a bettable event occurring during the sporting event, selecting a betting event, opening a betting line for the betting event, allowing the players an amount of time within which to selectively bet tokens on the possible outcomes of the betting event and freezing tokens be on the open line such that the frozen tokens are not available for further betting until a payoff has been made. Von Kohorn discloses, in col. 11:1-67 and col. 13:1-25, closing the betting line, monitoring the sporting event until a termination event occurs with regard to the betting event, terminating the betting event upon occurrence of the termination event for the betting event and paying winners of each betting event. Von Kohorn discloses, in col.

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9:27-67, col. 13:1-57 and col. 14:1-25, allocating bonus tokens, only one betting line is open at one given time, a new betting line is open at any given time or whenever a prior betting line closes and each of the players can place multiple bets on any open betting line. Von Kohorn discloses, in cols. 13-15, all the electrical components utilized to run the betting event. Von Kohorn discloses, in col. 14:45-67, col. 16:1-67 and col. 18:1-67, customizing a set of house rules for a private group, selecting a private group through a browser, running a plurality of betting games simultaneously, assigning identification numbers to the players and a wireless internet.

Regarding claims 13-21, 43-51 and 66-75, Von Kohorn discloses a football, baseball tennis soccer, basketball hockey and horse racing events. Von Kohorn discloses, in col. 21:1-25, col. 22:47-58 and col. 23:1-25, bonuses on lines decrease in value as the race progresses, such that players who bet correctly in the race have an advantage over players who correctly later in the race, the players pay money to a gambling establishment in exchange for the allocation tokens and the gambling establishment retains a percentage of tokens bet on the betting lines. Von Kohorn discloses, in col. 27:1-25, col. 29:14-67 and col. 33:1-45, at least some of the lines open at random points in time so as to add uncertainty as to when a line will close and thereby provide an incentive to place bets early in a given line and placing bets on events that occur in a baseball, football, basketball, hockey, tennis and racing.

Allowable Subject Matter

Claims 6-12, 36-42 and 59-65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345.


The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327.

RM

RM

September 19, 2003


Teresa Walberg
Supervisory Patent Examiner
Group 3700